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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,965	06/21/2001	Russell L. Kress	Kress 400	5029

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/886,965

Applicant(s)
RUSSELL L. KRESS

Examiner
YVONNE M. HORTON

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 21, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 14-17, 20, 24-27, 33, and 41 is/are rejected.
- 7) ☒ Claim(s) 10, 12, 13, 18, 19, 21-23, 28-32, 34-40, and 42-50 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,778,528 to HEIFETZ in view of US Patent #5,043,369 to BAHN et al. HEIFETZ discloses the use of a modular living enclosure including a plurality of molded plastic sections (10,12) defining a door (40), a floor (F), a top (T), and four upright walls (S,38,50), see the marked attachment. HEIFETZ discloses the basic claimed enclosure except for the use of ceramic particulate-filled resin material. BAHN et al. teaches that it is known in the art to form

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an article from a ceramic particulate material. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the enclosure of HEIFETZ from the ceramic particulate of BAHN et al. in order to create a structure that is very strong and durable. In regards to claims 2 and 3, the structure of HEIFETZ discloses the use of fiber resin layers (30,36). The color of the resin layer would have been an obvious matter of design choice depending upon the use intended. In reference to claims 4 and 5, the sections (10,12) each include L-shaped flanges (L), see also the marked attachment, to hold fascia panels (24,26,65). Regarding claim 6 and 7, the enclosure (10,12) includes integral furniture (86,92) consisting of at least a shelf (86).

4. Claims 1,8,9,11,14-17,20,24,25,26,27,33 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,048,690. GB 1,048,690 discloses the use of a modular living enclosure including a plurality of molded plastic sections (12,13) defining a door (D), a floor (F), a top (20,21,24,44), and four upright walls (16,17,31,32,39,40,41), see the marked attachment. GB 1,048,690 discloses the basic claimed enclosure except for the use of ceramic particulate-filled resin material. BAHN et al. teaches that it is known in the art to form an article from a ceramic particulate material. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the enclosure of GB 1,048,690 from the ceramic particulate of BAHN et al. in order to create a structure that is very strong and durable. In regards to claims 8,9,11,14,20,24,26,27 the enclosure (12,13) includes a bathroom fixture (2,38) including a washbasin, page 2, lines 28 and 59. In reference to claim 15, although

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GB 1,048,690 does not explicitly teach the use of a conduit and sump chamber, it does however, disclose the use of a water tank (28). It would have been obvious to one having ordinary skill in the art at the time the invention was made that the enclosure of GB 1,048,690 includes a conduit and sump chamber. Regarding claim 16 and 17, GB 1,048,690 discloses the use of a floor drain, page 2, line 91-96, and plumbing. In reference to claim 33, although GB 1,048,690 does not explicitly teach the use of a thermostat, it does however disclose the use of heating ducts. It ^{pg 2} _{line 58} would have been obvious to one having ordinary skill in the art at the time the invention was made that the enclosure would include a thermostat. Regarding claim 41, although GB 1,048,690 only shows one enclosure, it would have been obvious to one having ordinary skill in the art at the time the invention was made that several modular enclosures could be assembled, since the mere duplication of essential working parts involve only routine skill in the art.

Allowable Subject Matter

5. Claims 10,12,13,21-23,28-32,34-40 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 18,19 and 43-50 are allowed.

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7. The following is a statement of reasons for the indication of allowable subject matter:

In regards to claim 10, the prior art of record fails to teach the use of a modular enclosure having integral feet.

In reference to claims 12 and 18 the prior art of record fails to teach the use of a modular enclosure including an integrally molded toilet.

Regarding claims 21-23, the prior art of record fails to teach the use of a modular enclosure including an integrally molded bed surface, seating surface, or desk surface.

In reference to claims 28-32,34-40,42-50, the prior art of record fails to teach the use of a modular enclosure including electrical fixtures, ventilation, monitoring camera, emergency signal switch, or sprinkler.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

Primary Examiner

September 30, 2002

